

(Draft - Awaiting Formal Approval)
MINUTES OF THE
CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL
November 29, 2011– 9:00 a.m. – Room 450 State Capitol Building

Members Present:

Sen. Allen M. Christensen Senate Chair
Rep. Merlynn T. Newbold, House Chair
Sen. Gene Davis
Rep. Johnny Anderson
Rep. Christine F. Watkins

Staff Present:

Mr. Mark D. Andrews, Policy Analyst
Ms. RuthAnne Frost, Associate General Counsel
Ms. Wendy L. Bangerter, Legislative Secretary
Ms. Lori Rammell, Legislative Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Newbold called the meeting to order at 9:11 a.m.

MOTION: Sen. Christensen moved to approve the minutes of the December 17, 2010 meeting. The motion passed unanimously.

Mr. Andrews briefly reviewed the history of federal court oversight of Utah's child welfare system, and the purpose of the Child Welfare Legislative Oversight Panel. He quoted from the December 5, 2008 letter by then Panel chairs Sen. Dan R. Eastman and Rep. Steven R. Mascaró as the state was about to exit the *David C.* settlement agreement, which established federal oversight. The letter affirmed the Panel's intent to provide continued oversight of Utah's child welfare system.

2. Guardian ad Litem Budget

Ms. Tani Downing, Chair, Guardian ad Litem Oversight Committee, distributed "Report of Guardian ad Litem Oversight Committee to the Child Welfare Legislative Oversight Panel — Nov. 29, 2011," listing the members and responsibilities of the Committee and providing information about Office of Guardian ad Litem caseloads and salaries. She said the Committee has voted unanimously to support the building block request by the Office of Guardian ad Litem.

Mr. Rick Smith, Director, Office of Guardian ad Litem, distributed and discussed "Office of Guardian ad Litem," a document which outlines the Office's two FY13 budget building block requests: (1) funding for one additional guardian ad litem attorney for the Eighth Judicial District, which covers Daggett, Duchesne, and Uintah Counties; and (2) funding to address the lack of parity between salaries of guardians ad litem and other government attorneys.

Another issue for the Office, according to Mr. Smith, is the inadequate number of support staff to do the investigations required by statute. Attorneys work on investigations, too, but the Office could do a better job with investigations if it had more resources. He indicated guardians ad litem use caseworkers and the SAFE caseworker database for investigation information.

The Panel discussed the roles of guardians ad litem and court appointed special advocates volunteers and their relationships with children in the child welfare system.

The Panel also discussed whether to support the Office of Guardian ad Litem's building block requests.

Chair Newbold wondered whether the Office of Guardian ad Litem is adequately representing children if it is relying only on information gathered by caseworkers and not independently gathering information from other sources. She asked Mr. Smith to report at the next meeting on how the Office could use more investigators to improve its work.

Mr. Smith also said November 29 was the first day for beta testing of the Office's new case management system. He said the system was built from the ground up and there is not another one like it in the country. He indicated next year he will be able to present the Panel with performance measures from the system.

Ms. Lynne Skowronski, parent advocate, requested greater scrutiny of the Office of Guardian ad Litem budget. She expressed particular concern about fees imposed by district courts for the appointment of guardians ad litem to represent children of parents who are parties to cases before the courts. She presented statistics related to her concerns. Mr. Smith responded to Ms. Skowronski's presentation. He explained that the court, not his office, bills parents for guardian ad litem services, and that the fee imposed depends on parents' ability to pay, as determined by the court.

3. Legislative Audit Follow-up

Ms. Maria Stahla, Office of the Legislative Auditor General, reviewed the findings and 19 recommendations in "A Performance Audit of the Division of Child and Family Services (DCFS)," an audit released by her office in January 2011. Mr. Tim Bereece and Mr. Rick Coleman, both of the Office of the Legislative Auditor General, also spoke about the audit.

Ms. Stahla noted the Legislature may wish to ask the legislative auditor to conduct an in-depth review of staffing practices in each of the five DCFS regions.

Mr. Palmer DePaulis, Executive Director, Department of Human Services, expressed appreciation for the audit.

Mr. Brent Platt, Director, Division of Child and Family Services, Department of Human Services, identified two major themes that run through the audit — the need for a greater state presence in regional administration, and the balance between in-home services and foster care. He reported how DCFS is responding to each of the 19 audit recommendations:

Implemented (four recommendations):

- *Centralizing intake* (Mr. Platt indicated the spread in unaccepted referral rates across DCFS' five regions has been reduced from 23 percentage points to 16 percentage points)
- *Implementing technologies such as transcription services and portable laptops to enhance caseworker mobility* (Mr. Platt reported 900 laptops were given to staff in August and September)

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- *Working with Division of Facilities Construction and Management to reevaluate space standards for future building needs* (Mr. Platt said implementation will occur over five years as building leases expire)
- *Utilizing more recent average cost data when requesting additional funding for the adoption subsidy program* (Mr. Platt indicated that during the 2011 annual general session of the Legislature, DCFS pulled its FY12 building block request for adoption subsidies)

Partially Implemented (one recommendation):

- *Making courtesy worker visits the standard for clients in inter-region placements rather than the exception* (Mr. Platt said that after studying the issue, DCFS has determined use of courtesy caseworkers should be made on a child by child basis; he said DCFS is not comfortable at this time making a rule on the issue, but will plan to develop a statewide standard by the end of the 2012 annual general session of the Legislature)

Implementation in Process (14 recommendations):

- *Selecting an in-home services model, training staff, and providing in-home services to families whose children are at risk of being removed from their home* (Mr. Platt said training will be completed by April 2012)
- *Requiring all regions to implement an in-home model and monitoring regional use of the in-home model* (Mr. Platt said an in-home model will be fully implemented by 2013; Chair Newbold asked that DCFS provide the Panel with a monthly e-mail update on implementation of the model)
- *Determining strategies to provide lower cost alternatives to residential care by developing additional structured foster care homes* (Mr. Platt said a strategy to address this will be in place by April 2012)
- *Reviewing the Utah Foster Care Foundation contract to ensure the contract is meeting each region's needs for foster homes* (Mr. Platt said DCFS plans to have changes in place when the contract comes up for renewal in June 2012)
- *Requiring and monitoring that all regions complete the Permanency Utilization Reviews, as required by policy* (Mr. Platt said DCFS does not have a completion date for this recommendation, but completion will be soon and he will provide the Panel with a date)
- *Strengthening controls over contracts* (Mr. Platt explained what has been done to implement this recommendation and that full implementation won't occur until each contract has come up over a three-year period)
- *Considering implementing the levers of change described in the Annie E. Casey Foundation report Rightsizing Congregate Care in order to reduce the use of expensive residential care* (Mr. Platt said DCFS is close to purchasing kinship locator software that will reduce the locating of kin from days to minutes; He also said he could provide the Panel with a letter from the author of the Rightsizing report)

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- *Reconsidering the decision to not use the guardianship subsidies allowed by the Fostering Connections to Success and Increasing Adoptions Act of 2008* (Ms. Cosette Mills, Federal Revenue Manager, Division of Child and Family Services, explained the division is taking a second look at the Fostering Connections Act and that a recommendation will be made to the DCFS state leadership team in January 2012)
- *Reviewing the definitions of abuse and neglect in administrative rule to ensure they are consistent with statute* (Mr. Platt said a rewritten rule will be filed in December 2012; Chair Newbold said she has asked the Panel's staff to look at the new rule and make sure it is consistent with the statute; Mr. Platt said he could send copies of the old and new rules to the Panel's staff)
- *As a recommendation to the Legislature, requiring the Legislative Auditor General's Office or DCFS to perform an in-depth review of staffing practices among DCFS' five regions* (Mr. Platt said he can report the results of a division audit of staffing patterns when it has been completed, and he would welcome an outside audit; Chair Newbold said the expectation is that auditing of caseloads would occur regularly and not just when a legislative audit has been done)
- *Modifying the way DCFS calculates average caseloads and ensuring new assumptions reflect actual caseworker experiences*
- *Strengthening adoption subsidy policies to more specifically designate which special needs and circumstances should receive specific monthly adoption subsidy amounts* (Mr. Platt said strategies to address this will be in place by February 2012)
- *Reporting annually to the Legislature on historical trends in the percent of adoptions that are disrupted, and whether the cause of those disruptions was insufficient adoption subsidy assistance* (Mr. Platt said DCFS is compiling data on this recommendation and will submit it to the Panel and to the Health and Human Services Appropriations Subcommittee)
- *Equalizing adoption assistance funding among the five DCFS regions according to performance metrics that support the division's adoption program objectives*

With regard to DCFS' response to the audit recommendations, Chair Newbold indicated that a year from now she will want to know the recommendations have been implemented, what difference they have made, and whether they have saved money or improved services. She said she wants to know a system is being created that serves children well and uses taxpayer money well. She said she believes greater oversight of the five DCFS regions by DCFS is needed.

Responding to the audit, Ms. Skowronski made the following points:

- parents who have had children removed from their homes under non-strict definitions of abuse and neglect are filing federal lawsuits
- there are cases of children being abused in foster care to which DCFS has not reacted; parents of those children have an opportunity to file lawsuits

- a class action lawsuit against DCFS by parents is possibly pending
- a Utah/Washington study shows a 77% success rate for in-home services
- foster care costs an average of \$46,000 per year per child and lasts an average of 15 months, while in-home services average \$1,700 per year per child and last an average of four to five months
- information Ms. Skowronski can share with the Panel shows how the state could save \$86 million over four years through greater use of in-home services
- there is a push to get children into foster care in order to get federal funds
- over 10 years, the rate of children in Utah foster care has increased 38%, while the national rate has been declining
- the federal match rate for federal Title IV-B in-home services funding is 75%; the match rate for Title IV-E foster care funding is 50%
- a case in which a parent submitted 17 options for a kin placement and all were rejected should be looked into
- because they receive \$72 million per year, DCFS service providers have a big incentive
- Ms. Skowronski would like to find out which DCFS provider receives \$5.4 million per year for services; she was unable to answer that question through a public records request to DCFS

Sen. Davis said he hopes the Panel can get to the bottom of some of the questions Ms. Skowronski raised, if they are not part of or related to any lawsuits.

4. Fatality Reviews

Mr. Andrews distributed reports for each fatality review conducted since the Panel last met. He pointed out a summary of the reviews was included in the background materials for this agenda item. Chair Newbold said the fatality reviews will be discussed at the next meeting.

5. Distribution of Annual Reports

Chair Newbold asked Panel members to notify the chairs if they would like to discuss any of the annual reports included in the background materials for this agenda item at the next meeting.

8. Adjourn

MOTION: Sen. Christensen moved to adjourn the meeting. The motion passed unanimously.

Chair Newbold adjourned the meeting at 12:12 p.m.